

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7628

Joint Petition of Green Mountain Power Corporation,     )  
Vermont Electric Cooperative, Inc., and Vermont     )  
Electric Power Company, Inc. for a certificate of public     )  
good, pursuant to 30 V.S.A. Section 248, to construct up     )  
to a 63 MW wind electric generation facility and     )  
associated facilities on Lowell Mountain in Lowell,     )  
Vermont, and the installation or upgrade of     )  
approximately 16.9 miles of transmission line and     )  
associated substations in Lowell, Westfield and Jay,     )  
Vermont     )

Order entered: 7/14/2010

**PREHEARING CONFERENCE MEMORANDUM, SCHEDULING ORDER  
AND NOTICE OF WORKSHOP**

On May 21, 2010, the Vermont Public Service Board ("Board") received a petition from Green Mountain Power Corporation ("GMP"), Vermont Electric Cooperative, Inc. ("VEC"), and Vermont Electric Power Company, Inc. ("VELCO") (collectively "Petitioners") for a certificate of public good ("CPG"), pursuant to 30 V.S.A. § 248, to construct a wind generation facility in Lowell, Vermont, and to install or upgrade transmission facilities and associated substations in Lowell, Westfield, and Jay, Vermont.

The Board convened a prehearing conference on July 7, 2010. Appearances were entered by the following parties: Peter H. Zamore, Esq., and Benjamin Marks, Esq., Sheehey Furlong & Behm, PC, and Donald J. Rendall, Esq., for GMP; Victoria J. Brown, Esq., and Joslyn Wilschek, Esq., Primmer Piper Eggleston & Cramer, PC, for VEC; Mark Sciarotta, Esq., for VELCO; Geoffrey Commons, Esq., and John Beling, Esq., for the Vermont Department of Public Service ("Department"); and Judith Dillon, Esq., for the Agency of Natural Resources ("ANR"). In addition, adjoining landowners and other potential intervenors were present at the prehearing conference.

Below we set forth the schedule for this docket, based on our consideration of the different proposals presented and the ensuing discussion at the prehearing conference. We also provide information regarding filing material with the Board, address participation in Board cases, and establish response deadlines for two pending motions.

### Schedule

At the prehearing conference, Petitioners and the Lowell Mountain Group ("LMG")<sup>1</sup> circulated different proposals for a schedule. Petitioners' proposed schedule is driven by their desire to obtain a decision in this proceeding by Spring of 2011, so that, if the petition is approved, construction can commence early enough to allow the project to become operational by December 31, 2012. LMG's proposed schedule reflects an attempt to accommodate Petitioners' request for a Spring 2011 decision, while affording it, and potentially other intervenors, some additional time to prepare and file their cases.

Based on our consideration of the competing proposals and comments made at the prehearing conference, we adopt the following schedule:

<b>Event</b>	<b>Date</b>
Prehearing Conference	7/7/10
PSB Workshop	7/23/10
Intervention Motion Deadline	8/13/10
Responses to Intervention Motions	Five business days after motion filing date
1 <sup>st</sup> Discovery Requests on Petitioners	8/20/10
1 <sup>st</sup> Discovery Responses	9/10/10
2 <sup>nd</sup> Discovery Requests on Petitioners	9/20/10
Site Visit and Public Hearing	9/23/10
2 <sup>nd</sup> Discovery Responses	10/5/10
Non-Petitioner Testimony	10/22/10
Discovery Requests on Non-Petitioners	10/29/10
Discovery Responses	11/12/10
Rebuttal Testimony	11/22/10

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1. The Lowell Mountain Group, while not yet a party, stated through counsel its intent to file a motion to intervene in this proceeding.

Discovery Requests on Rebuttal Testimony	12/10/10
Discovery Responses	12/23/10
Surrebuttal Testimony	1/10/11
Discovery Requests on Surrebuttal Testimony	1/18/11
Discovery Responses	1/31/11
Technical Hearings	2/7/11-2/11/11 and 2/22/11-2/25/11
Briefs	3/14/11
Reply Briefs	3/28/11

The schedule potentially allows for a round of discovery to be served before the Board renders its decisions on some motions to intervene. Potential intervenors who wish to participate in the first round of discovery should file a motion to intervene sufficiently early to allow time for responses and a Board decision prior to the first round of discovery.

#### **Notice of Workshop**

The schedule we adopt sets July 23 for the proposed workshop.<sup>2</sup> The workshop will begin at 9:30 a.m. in the Board's Hearing Room on the third floor of the Chittenden Bank Building at 112 State Street in Montpelier. Given the early date for the workshop, participation will be open to existing parties and those entities or individuals that intend to seek intervention as full parties to the Docket. The Board is not requiring the proposed workshop. Rather, it is accepting the Petitioners' proposal to conduct the workshop, and is assigning staff to oversee the workshop in a manner that will create an opportunity for parties and those who intend to seek intervention to obtain technical information from the Petitioners in order to better understand the proposed project prior to beginning the discovery phase of the proceeding. The workshop will not be a forum for debating the merits of the proposed project. A court reporter will transcribe the workshop and the transcript will be available to the parties through the court reporter.

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2. The Clerk's office was informed the afternoon of July 7 that, during the prehearing conference, counsel for GMP incorrectly proposed the dates of August 13, 22 or 23 for a possible Board workshop, meaning instead to propose July 13, 22 or 23.

### **Filings**

Parties need to file with the Board an original and eight copies of all filings, except that they need file only one copy of all discovery correspondence. Electronic filings with the Board, in addition to the required hard copies, are also requested to the extent possible, particularly for testimony, exhibits, and briefs. An electronic filing may be submitted as an attachment to e-mail sent to [psb.clerk@state.vt.us](mailto:psb.clerk@state.vt.us), or it may be on a CD or DVD delivered along with the paper copy. Parties need file only a single copy of the CD or DVD. Parties filing electronic versions of documents may file them in WordPerfect, Word, .rtf, or .pdf (Adobe) formats. Parties filing in .pdf format should ensure that their documents are not locked, that is, that text can be selected and copied from their documents.

Additionally, by letter dated July 7, 2010, Petitioners requested that parties be allowed to serve discovery responses on each other electronically when response materials are voluminous. We agree that this approach can be efficient and confirm that it is permissible. Parties may serve voluminous discovery materials on other parties in electronic format (e.g., e-mail attachment or CD). However, if a party is not capable of receiving or accessing the material in electronic format, they must notify the responding party of that fact and will be entitled to receive hard copies upon such notification.

### **Participation**

Members of the public interested in these proceedings do not need to intervene as a party in order to obtain information regarding the proceedings or provide comments to the Board. Individuals and organizations can access information regarding the proceedings through the Board's website at [www.psb.vermont.gov](http://www.psb.vermont.gov). The website will contain the testimony and exhibits filed by parties, notices of hearings, all Board orders, as well as the Docket schedule. Newly-filed materials and newly-issued orders will generally be posted within 24 hours of filing or issuance. In the event access to the Board's website is problematic, individuals may contact the Clerk's Office to make alternate arrangements. The public is also encouraged to submit written comments on the project electronically or via regular mail, or to attend the September 23 public hearing. While these comments do not become part of the evidentiary record (under Vermont law the Board's decision must be based upon the evidence presented by formal parties during the evidentiary hearings), public comments play an important role by raising new issues or offering perspectives that the Board should consider and ask parties to present evidence on.

If an individual, group, or organization does choose to seek more active participation than providing comments or receiving notice of the proceedings, it may file a motion to intervene in this Docket. In making such a motion, the potential intervenor must demonstrate that it has a substantial interest which may be adversely affected by the outcome of the case, and address the requirements of Board Rule 2.209. Intervenors have the same obligations, in addition to the same rights, as the other formal parties, including the requirement that parties follow the Board's procedural rules. In addition, potential intervenors should be aware that there are costs involved in being a party in a docket such as this, both as to time and money.<sup>3</sup> An intervenor may provide testimony and participate in the evidentiary hearings and will be subject to the rules governing discovery and cross-examination. Individuals or groups that appear pro se (without the assistance of counsel) have most of the same responsibilities and rights as an attorney. For further information regarding intervention and providing public comments, please consult the *Citizens' Guide to the Vermont Public Service Board's Section 248 Process*, available on the Board's website at [www.psb.vermont.gov](http://www.psb.vermont.gov) or available from the Board in hard copy.

#### **Pending Motions**

Petitioners currently have two motions pending before the Board. The first is a motion for confidential treatment of certain prefiled evidence that was filed on May 21, 2010, along with the petition, prefiled testimony and exhibits. Parties and potential intervenors shall have until close of business on July 23, 2010, to provide comments on this motion. The Board will issue its ruling after receiving any comments from the parties. The second is a motion that the Board waive the notice requirements of PSB Rules 5.402(B) and 5.403(B)(1), as a result of Petitioners' failure to properly provide notice to Mr. Peter Sweeney, an adjoining landowner, and the Lamoille County and Northwest Regional Planning Commissions. If the Board does not receive any objections from Mr. Sweeney or either of the two affected planning commissions by close of business July 23, 2010, the motion will be considered granted without further order of the Board.<sup>4</sup> If objections are received, the Board will take the motion under advisement at that time.

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3. These costs include providing copies of any filings with the Board to all parties in the Docket, as required by Board rules.

4. The Clerk's Office will send copies of this memorandum to Mr. Sweeney, the Lamoille County Planning Commission and the Northwest Regional Planning Commission so that they are on notice of the pending motion and associated deadline for response.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 14<sup>th</sup> day of July, 2010.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: July 14, 2010

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*